October 7, 2008

Philip Giudice, Commissioner
Massachusetts Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114

Re: Reply Comments – RPS Import Feasibility

Dear Commissioner Giudice:

Conservation Services Group (CSG) appreciates this opportunity to submit reply comments in connection with DOER's assessment of the state Renewable Portfolio Standard in light of the Green Communities Act. Specifically, we are writing to comment on the feasibility of instituting the capacity and "netting" requirements outlined in Section 105 of the "Green Communities Act." Given the very short time period for filing comments in response to the extensive initial comments filed on October 1, these comments do not set out to respond to every issue and argument that stakeholders have endeavored to raise. Rather, these comments are intended to address the arguments raised by the three commenting parties who are proponents of import restrictions regarding the definition of feasibility and technical issues related to a feasibility determination of the capacity requirements in subsection (c).

**Definition of Feasibility**
CSG strongly supports reply comments submitted by the Conservation Law Foundation that DOER's feasibility inquiry should not inappropriately be constrained. It is important to highlight the extraordinary circumstance presented by the Green Communities Act's express direction that the agency make a threshold feasibility determination when considering import restrictions and netting requirements. Given the legislature's directive and the fact that it predicates any application of the statutory provisions on an affirmative determination by the agency, DOER should take into account all significant issues that have been raised with respect to feasibility . These issues include:

**Subsection (c) Feasibility**

CSG welcome's Cape Wind's recognition of "the concerns that have been raised by remotely-located generating interests" and their effort to craft an alternative. We are concerned that the proposed alternative is based on a presumption regarding the interactions between ISO-NE and external resources which, based on our research, do not exist. Specifically, the alternative presented by Cape Wind suggests that it is possible for DOER to require that an importing resource will "upon request offer its energy to serve the ISO-NE control area," even without that external resource being listed as an FCM resource. We believe that this proposal is problematic in two respects.

One problematic aspect of this proposed requirement is that ISO-NE is not in direct communication with external resources with regard to dispatch. Our research into the

technical details has been limited by the short timeframe available for these reply comments. However, it is our understanding that requesting that an external resource offer its energy to serve the ISO-NE control area area is a laborious task. Making such a request would require a manual request(i.e., phone call) from the ISO-NE to the external control area operator which in turn would require a manual request from the external control area operator to the external resource. Based on our research, implementation of the alternative proposal would require that ISO-NE modify its operations for no other purpose than to implement a requirement of the Massachusetts RPS.

Cape Wind's proposal is also problematic because it does not account for rules established by the ISO NE's Forward Capacity Market. Starting June 2010, de-listed generators (those who are NOT receiving capacity payments) have no obligation to provide energy during peak hours or any other hour. This is a change from current policy, in which de-listed units still must follow dispatch instructions. The alternative proposal presented by Cape Wind is thus technically in conflict with ISO-NE FCM rules.

In developing rules related to imports, DOER must rely on the existing rules and regulations of independent system operators and the North America Electric Reliability Council (NERC) as these two institutions are the governing bodies that manage the power grid. Since DOER is not in a position to change ISO NE and FERC rules, it should not make determinations of feasibility predicated on a change in FERC and ISO NE rules. DOER must make a determination of feasibility within the context of the existing rules and protocols of these institutions.

Finally, CSG believes the alternative suggestion: that requiring external resources participating in the MA RPS, to "not commit [their] capacity to any control area to other than ISO-NE" will provide no benefit to ISO-NE consumers and will potentially reduce the ability of our neighboring control area operators to successfully plan for capacity going forward.

**Conclusion**

In formulating our comments, CSG has drawn on our five years of experience importing RECs for MA RPS compliance. Given the short period of time available for responding to initial comments, we decided to focus these reply comments on the technical aspects of implementing Section 105 subsection (c) and the feasibility of doing so. Based on our review of all comments submitted and Conservation Law Foundation's reply comments, CSG respectfully asks that the Department find both subsection (c) and (e) of Section 105 of the Green Communities Act legally infeasible. We also ask that the Department refrain from adopting any capacity market or "netting" requirements that would serve as barriers to imports of clean, renewable energy. In lieu of questionable protectionist measures against imports, we believe that proactive and non-discriminatory tools could be used to promote the development of renewable energy facilities in Massachusetts. These non-discriminatory tools could include long-term contracts and reasonable renewable energy facility siting reforms.

Thank you for the opportunity to provide these comments.

Sincerely,
Patricia Deese Stanton
Vice President, Clean Energy Markets, Conservation Services Group